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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

ANIBAL RODRIGUEZ, SAL CATALDO,  
JULIAN SANTIAGO, and SUSAN LYNN  
HARVEY individually and on behalf of all  
other similarly situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No.: 3:20-cv-04688-RS

**PLAINTIFFS' ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
PORTIONS OF PLAINTIFFS' MOTION  
FOR CLASS CERTIFICATION**

Judge: Hon. Richard Seeborg

Courtroom 3 – 17th Floor

Date: October 17, 2023

Time: 1:30 p.m.

Pursuant to Civil Local Rule 7-11 and 79-5, the Stipulated Protective Order, and the Court's August 15, 2023 Order (Dkt. 321), Plaintiffs respectfully submit this Administrative Motion to Seal the following material submitted in connection with the briefing on Plaintiffs' Motion for Class Certification (Dkt. 315, 323, 329, 333) and Google's Motion to Exclude Opinion of Plaintiffs' Damages Expert Michael J. Lasinski (Dkts. 326, 330, 331, 332).

Document or Portion of Document Sought to Be Sealed	Party Claiming Confidentiality	Basis for Sealing
March 22, 2023 Expert Report of Plaintiffs' Expert Jonathan Hochman ("Hochman Report") (Dkt. 314-7): Portions highlighted in teal in paragraphs 149, 152, 182, 191, 192, 244, and 246	Plaintiffs	Reveals Plaintiffs' contact information, location, unique identifiers, and private app activity, all of which is marked "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix A (Excel file submitted by flash drive on July 20, 2023)	Plaintiffs	Reveals Plaintiffs' contact information
Hochman Report Appendix B.1 (Excel file submitted by flash drive on July 20, 2023)	Plaintiffs	Reveals Plaintiffs' contact information, unique identifiers and private app activity, which is marked "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix B.2 (Excel file submitted by flash drive on July 20, 2023)	Plaintiffs	Reveals Plaintiffs' contact information, unique identifiers and private app activity, which is marked "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix C (Excel file submitted by flash drive on July 20, 2023)	Plaintiffs	Reveals Plaintiffs' unique identifiers and private app activity, which is marked "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix D (Excel file submitted by flash drive on July 20, 2023)	Plaintiffs	Reveals Plaintiffs' contact information, unique identifiers, and private app activity, which is marked "Confidential" by Plaintiffs pursuant to the Protective Order

Document or Portion of Document Sought to Be Sealed	Party Claiming Confidentiality	Basis for Sealing
Hochman Report Appendix K: Portions highlighted in teal on pages 40-130 (Dkt. 314-7)	Plaintiffs	Reveals Plaintiffs' contact information, location unique identifiers, and private app activity, which is marked "Confidential" by Plaintiffs pursuant to the Protective Order
Google's Opposition to Plaintiffs' Motion for Class Certification: Portions highlighted on page 18, lines 27-28 (Dkt. 323, 329)	Plaintiffs	Reveals the behavior of Mr. Rodriguez's son, who is a minor and a non-party
Exhibit 20 to the Declaration of E. Santacana in Opposition to Plaintiffs' Motion for Class Certification (excerpts of transcript of deposition of Plaintiff Anibal Rodriguez): Portions highlighted on pages 311:8-312:3, 327:20, and 329:11-24 (attached)	Plaintiffs	Reveals the name and behavior of Mr. Rodriguez's son, who is a minor and a non-party
Exhibit 6 to the Declaration of E. Santacana in Support of Google's Motion to Exclude Opinion of Plaintiffs' Damages Expert Michael J. Lasinski (complete transcript of deposition of Plaintiff Susan Lynn Harvey): Portions highlighted on pages 8:12, 8:21, 21:16-18, 35:12, 52:1-2, 60:20, 60:23, 63:13, 66:19, 69:8, 97:23, 98:7, 98:10, 113:24, 114:4, 114:11, 14-15, 114:23-24, 115:19, 115:22, 116:18, 116:23, 117:20-21, 121:23, 122:1, 122:9, 122:22, 122:25, 123:18, 123:22, 123:25, 124:3, 126:8, 126:10, 128:18, 141:4, 157:14, 157:21, 158:10, 158:15, 167:21, 168:23, 173:15, 173:18, 181:21, 182:16, 183:19, 187:17, 188:4, 188:10, 222:1, 222:4, 222:17, 223:9, 225:17, 226:4, Index page 3, Index page 5, Index page 17, Index page 28, and Index page 42 (attached)	Plaintiffs:	Reveals Ms. Harvey's home address, email addresses, and banking institutions

**I. LEGAL STANDARD**

**A. Party Seeking to Seal Its Own Records**

“The public has a right of access to the Court’s files.” Civil L.R. 79-5(a). The presumption of public access can be overcome where the sealing party “articulate[s] compelling reasons supported by specific factual findings . . . that outweigh . . . public policies favoring disclosure such as the public interest in understanding the judicial process.” *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006) (citations omitted). Courts “must conscientiously balance the competing interests of the public and the party who seeks to keep certain judicial records secret.” *Id.* (citing *Foltz v. State Farm Mut. Auto Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)) (marks omitted).

**II. ARGUMENT**

Plaintiffs seek to seal limited portions of the expert report submitted by their technical expert, Mr. Jonathan Hochman. These portions contain material that Plaintiffs are designating “Confidential” pursuant to the parties’ stipulated Protective Order. Specifically, the portions sought to be sealed associate one of the named Plaintiffs with various identifiers, contact information, private app activity data, location, and other sensitive information. *E.g.*, Hochman Report ¶ 192 (discussing a named Plaintiff’s phone number, zip code, and device information). In other cases, Plaintiffs seek to seal spreadsheets containing and analyzing records produced from Google’s logs, which Plaintiffs expect Google will in any event seek to seal. Plaintiffs’ narrowly tailored proposals “will not interfere with the public’s ability to understand the judicial process.” *Ojmar US, LLC v. Sec. People, Inc.*, No. 16-cv-04948-HSG, 2016 WL 6091543, at \*2 (N.D. Cal. Oct. 19, 2016). Plaintiffs are not seeking to redact any of Mr. Hochman’s opinions, nor any material that the public will need in order to understand them.

Furthermore, “an individual’s privacy interest” is a compelling reason to seal a document. *Nursing Home Pension Fund v. Oracle Corp.*, No. C01-0100988 MJJ, 2007 WL 3232267, at \*2 (N.D. Cal. Nov. 1, 2007) (allowing redaction of home addresses and financial account

information); *Pension Plan for Pension Tr. Fund for Operating Eng'rs. v. Giacalone Elec. Servs., Inc.*, No. 13-cv-02338-SI, 2015 WL 3956143, at \*10 (N.D. Cal. June 29, 2015). Plaintiffs have a strong interest in the privacy of this material; indeed, Plaintiffs assert that Google violated their privacy by collecting and saving this information. When at all possible, plaintiffs asserting privacy claims should be permitted to do so without enduring further injuries to privacy. Courts in this District have previously granted substantially similar motions to seal similar materials. *See Calhoun v. Google LLC.*, No. 4:20-cv-05146-YGR-SVK (N.D. Cal.), Dkt. 198 (sealing *Calhoun* plaintiffs' web browsing history and information); *Brown v. Google*, No. 4:20-cv-03664-YGR (N.D. Cal.), Dkt. 804 (sealing *Brown* plaintiffs' web browsing history and information). Courts have similarly ordered redaction of information revealing information about minors, for whom the interest in privacy is especially strong. *See, e.g., Fotinos v. Fotinos*, 2014 WL 546083, at \*5 (N.D. Cal. Feb. 7, 2014).

Additionally, public exposure of the information that Plaintiffs seek to seal could subject Plaintiffs to a risk of identity theft. *See, e.g., Adkins v. Facebook, Inc.*, 424 F. Supp. 3d 686, 689 (N.D. Cal. 2019) (recognizing that identifiers enable malicious actors to access consumers' accounts); *McDonald v. CP OpCo, LLC*, 2019 WL 343470, at \*9 (N.D. Cal. Jan. 28, 2019) (sealing email addresses, recognizing that the email addresses "could become a vehicle for improper purposes").

### III. CONCLUSION

For the reasons articulated herein, Plaintiffs respectfully request that the Court grant their Administrative Motion to Seal. Plaintiffs' redactions are narrowly tailored to cover only information subject to a compelling interest in privacy, and that are unlikely to affect the outcome of these motions or the Court's analysis.

Dated: October 12, 2023

Respectfully submitted,

By: /s/Mark Mao

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